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BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER

Chairman

MARC SPITZER

Commissioner

WILLIAM MUNDELL

Commissioner

MIKE GLEASON

Commissioner

KRISTIN MAYES

Commissioner

Arizona Corporation Commission

DOCKETED

JUN 10 2005

DOCKETED BY

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IN THE MATTER OF QWEST  
COMMUNICATIONS CORPORATION'S  
APPLICATION AND PETITION FOR  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE INTRASTATE  
TELECOMMUNICATIONS SERVICES

DOCKET NO. T-02811B-04-0313

NOTICE OF FILING  
SUPPLEMENTAL AUTHORITY

Qwest Communications Corporation ("QCC") hereby submits this Notice of Filing Supplemental Authority in the above-captioned docket. Attached hereto as Exhibit 1 is a copy of an Order Issuing Certificate of Adoption of the Nebraska Public Service Commission, dated June 7, 2005, *In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 5, Telecommunications Rules and Regulations, to add rules for incumbent local exchange carriers with an affiliated competitive local exchange carrier serving in the same territory*, Rule and Regulation No. 164. The rules adopted by the Nebraska Commission require ILECs whose affiliated CLECs serve the same service territory as served by the ILEC to (1) file all commercial agreements between the ILEC and the affiliated CLEC with the Commission, (2) file annually the number of resold lines provided by the ILEC to the affiliated CLEC and (3) refrain from any discriminatory practices in favor of the affiliated ILEC.

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ARIZONA CORPORATION COMMISSION  
DOCUMENT CONTROL

2005 JUN 10 P 3:00

RECEIVED

1 DATED this 10<sup>th</sup> day of June, 2005.

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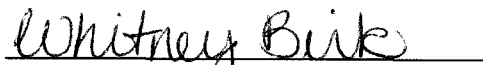
12 ORIGINAL +13 copies filed this  
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# EXHIBIT

# 1

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its ) RULE AND REGULATION NO. 164  
own motion, seeking to amend Title 291, )  
Chapter 5, Telecommunications Rules and ) ORDER ISSUING CERTIFICATE  
Regulations, to add rules for incumbent ) OF ADOPTION  
local exchange carriers with an )  
affiliated competitive local exchange )  
carrier serving in the same territory. ) Entered: June 7, 2005

BY THE COMMISSION:

O P I N I O N     A N D     F I N D I N G S

The Commission, on its own motion, opened this proceeding on March 29, 2005, to amend Title 291, Chapter 5, Telecommunications Rules and Regulations to add rules addressing situations where incumbent local exchange carriers (ILECs) have an affiliated competitive local exchange carrier (A-CLEC) serving the same territory. After denying an application presented by an Aliant (n/k/a ALLTEL) affiliate to serve the territory served by the ALLTEL ILEC, the Commission opened an investigation to create terms and conditions by which it would permit an A-CLEC company to compete with an affiliate ILEC. The Commission established those terms and conditions in Application C-1839. Recently, Qwest Communications Corporation (QCC) filed an application seeking to remove the restrictions established in C-1839. See Application C-3335.

The Commission's decision in Application C-1839 imposed restrictions on an A-CLECs ability only to the extent that the A-CLEC competes with its affiliate ILEC, in the ILEC's service territory. QCC has argued to the Commission that the restrictions established by the Commission in Application C-1839 were outdated and too restrictive. See Application C-3201. The Commission agrees that it should review the restrictions established in Application C-1839 to determine whether the terms and conditions are too restrictive, outdated or whether new rules should be established.

To that end, the Commission proposed to amend Title 291, Chapter 5, Telecommunications Rules and Regulations, as follows:

002.50 In addition to information otherwise provided to or filed with the Commission, any incumbent local exchange carrier (ILEC) that provides service in the same service territory or exchange as a competitive local exchange carrier (CLEC) with which it is affiliated shall file with the Commission information specified by this rule.

002.50A An ILEC shall file with the Commission all commercial agreements between the ILEC and its affiliated CLEC as they are made.

002.50A1 For the purposes of this rule, commercial agreements include, but are not limited to, agreements not otherwise included in and filed with the interconnection agreement between the ILEC and its affiliated CLEC.

002.50A2 For the purposes of this section, it will be sufficient if the ILEC files such agreements not later than fifteen (15) days from the date such agreements are signed.

002.50B An ILEC shall file with the Commission, on an annual basis, commencing April 30, 2006, the number of resale access lines provided by the ILEC to its affiliated CLEC.

002.51 No incumbent local exchange carrier (ILEC) that provides service in the same service territory or exchange as a competitive local exchange carrier (CLEC) with which it is affiliated may engage in discriminatory practices to the favor of its affiliated CLEC.

Comments on the proposed amendments were filed by Qwest Corporation and Cox Nebraska Telcom LLC on May 2, 2005. A public hearing on the proposed amendments was held on May 17, 2005. Qwest, Cox and the Rural Independent Companies provided testimony at that hearing. In its comments and in its testimony, Qwest took the position that the rules were not necessary. Qwest recommended some changes to the rules should the Commission disagree with Qwest's position. Qwest recommended the Commission sunset the rules after a period of three years. Qwest further stated that the 15 day time frame in rule 002.50A2 was not long enough and should be changed to 30 days.

Cox supported the rule amendments. Cox testified the rules were needed to ensure that ILEC companies with an in-region affiliate CLEC company did not discriminate against other CLECs. Cox took the position that no sunset provision should be added to the rules. Cox further argued that the 15 day time frame in rule 002.50A2 was sufficient. Cox was opposed to extending that time frame to 30 days.

Upon consideration of the comments filed and the testimony given in this proceeding, the Commission is of the opinion and finds the original proposed amendments should be adopted with the exception that the 15 day time frame be replaced with a 30 day time frame in rule 002.50A2. All parties were given sufficient opportunity to give the Commission input on this issue as it was first raised in the comments. While the Commission does not believe a 15 day time frame will cause frequent violations as Qwest argued, the Commission believes that a 30 day time frame in the rules may be a more realistic deadline for carriers to follow.

Accordingly, the Commission issues a certificate of adoption for the following rule amendments:

002.50 In addition to information otherwise provided to or filed with the Commission, any incumbent local exchange carrier (ILEC) that provides service in the same service territory or exchange as a competitive local exchange carrier (CLEC) with which it is affiliated shall file with the Commission information specified by this rule.

002.50A An ILEC shall file with the Commission all commercial agreements between the ILEC and its affiliated CLEC as they are made.

002.50A1 For the purposes of this rule, commercial agreements includes but is not limited to, agreements not otherwise included in and filed with the interconnection agreement between the ILEC and its affiliated CLEC.

002.50A2 For the purposes of this section, it will be sufficient if the ILEC files such agreements not

later than thirty (30) days from the date such agreements are signed.

002.50B An ILEC shall file with the Commission, on an annual basis, commencing April 30, 2006, the number of resale access lines provided by the ILEC to its affiliated CLEC.

002.51 No incumbent local exchange carrier (ILEC) that provides service in the same service territory or exchange as a competitive local exchange carrier (CLEC) with which it is affiliated may engage in discriminatory practices to the favor of its affiliated CLEC.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a certificate of adoption be issued on the proposed rule amendments described herein.

MADE AND ENTERED at Lincoln, Nebraska this 7<sup>th</sup> day of June, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director